

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ANITA IVORY,)	
)	
Plaintiff,)	
)	
v.)	No. 04 C 7218
)	
MERCK & CO., INC.,)	
)	
Defendant.)	


MEMORANDUM OPINION AND ORDER

On November 8, 2004 Merck & Co., Inc. ("Merck") filed a timely Notice of Removal ("Notice") to bring this action from the Circuit Court of Cook County to this District Court for the second time (this Court had remanded the initial attempted removal, which had been assigned Case No. 04 C 6762, on October 25, 2004 because of the absence of federal subject matter jurisdiction over the original Complaint in the case). Although Merck's counsel quite properly identified this action as the refiling of a previously-dismissed action, calling for its direct assignment to this Court's calendar, through oversight the Clerk's Office handled the case as one calling for the usual computer-driven random assignment. Thus the case was assigned to the calendar of this Court's colleague Honorable Marvin Aspen, who has entered a November 29, 2004 order granting Merck's motion to stay all proceedings pending a potential decision on transfer by the Judicial Panel on Multidistrict Litigation.

This Court has just learned of the existence of this renewed

removal and of the Clerk's Office's assignment error through an odd chance, and it has initiated the retransfer of the case to its own calendar. Because the Amended Complaint-Class Action filed by plaintiff's counsel in the Circuit Court does confirm the existence of the requisite amount in controversy to support federal diversity jurisdiction, and because Judge Aspen's November 29 stay order was unexceptionable, nothing further need be done by this Court with one exception--the resetting of Judge Aspen's next-scheduled status hearing date to conform to this Court's practices.

Accordingly the portion of Judge Aspen's November 29 order that set a status hearing for June 23, 2005 at 10:30 a.m. is vacated. Instead a status hearing is set for 9 a.m. March 28, 2005, with the understanding that if the MDL Panel has not yet ruled on the possible transfer of this action by March 21, counsel should promptly call this Court's chambers with that information. In that event the status hearing date will be reset without the need for a March 28 appearance by either side's counsel.



Milton I. Shadur
Senior United States District Judge

Date: January 24, 2005